SEP 2 1982

ORIGINAL

Y 1.1/8:97-709

97TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 97-709

COMPLETED

DIRECTING THE SECRETARY OF THE INTERIOR TO RELEASE CERTAIN CONDITIONS CONTAINED IN A PATENT CONCERNING CERTAIN LAND CONVEYED BY THE UNITED STATES TO EASTERN WASHINGTON UNIVERSITY

AUGUST 10, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 6419]

[Including the cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 6419) to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 2, after line 10, insert the following:

> (c) The authority of the Secretary to release such conditions shall expire five years after enactment of this Act.

Page 2, lines 12 and 13, strike "the University has demonstrated to the satisfaction of the Secretary that—" and in lieu thereof insert:

> The University concludes an agreement with the Secretary, and delivers to the Secretary a recordable document setting forth the terms of such agreement, that—"

Page 3, line 10, strike "and".

Page 4, line 2, change "origin." to "origin, and" and insert the following:

> (5) the University will include the terms of such agreement in any document transferring to the University property acquired by the University pursuant to such agreement.

89-006 O

PURPOSE

This bill [1] would direct the Secretary of the Interior to release the reversionary interest of the United States in certain lands which are now held by the Eastern Washington University and to enable the University to sell or exchange those lands in order to acquire other lands more suitable for educational or recreational purposes.

BACKGROUND AND NEED

The 21 acres of lakeside property that are the subject of the bill were acquired by the university in 1961 under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869–869–4). The patent provides that the land shall revert to the United States if the patentee attempts to transfer title or uses the land for other than educational and recreational purposes without the consent of the Secretary of the Interior.

The university originally acquired the land intending to develop it extensively as a retreat for its music school. The university did develop a road, powerline, well, toilets, two docks, and primitive camping areas, but abandoned its plans to install permanent buildings for educational purposes because of lack of funds. It continued using the land for recreation only, and in 1976 revised its management plan to make it compatible with the limited nature of this development and use.

As of 1980, the value of the property was approximately $250,000, according to the Oregon State Office of the Bureau of Land Management. The land is several miles from the campus. Because of its physical features, including cliffs at the edge of the lake, it is not considered safe for unsupervised recreation. The university wants to exchange or sell the land to acquire property adjacent to the campus, but cannot do so because of the reverter provision in its patent. Thus, in order for the university to conclude such an exchange, it is necessary to remove the reverter restriction. The bill is designed to achieve this objective, which cannot be accomplished administratively.

THE COMMITTEE AMENDMENTS

The Committee adopted three amendments which incorporate the suggestions of the Department of the Interior. The first limits the authority of the Secretary so as to require that the university complete within five years the exchange or sale of the property it now holds and the acquisition of the property it proposes to acquire. The second requires the University to prepare and deliver to the Secretary a recordable document setting forth the terms of the agreement the University and the Secretary, which will impose on the lands the between the University and the Secretary, which will impose on the lands the University acquires restrictions similar to those being released from the land the University will be relinquishing. The third requires that these restrictions be included in any document transferring the acquired property to the University, for the protection of any third parties and for public notice.

---

[1] H.R. 6419 was introduced by Representative Foley.

SECTION-BY-SECTION ANALYSIS

Section 1 requires the Secretary of the Interior to release the reversionary conditions now contained in the patent which conveyed the relevant lands to Eastern Washington University. Subsection (a) specifies the conditions to be released. Subsection (b) describes the lands in question. Subsection (c) (added by the first Committee amendment) limits the authority so as to require that the University complete the implementation of the sale or exchange to be facilitated by the bill within five years of enactment. After that period, the Secretary's authority to release the conditions specified in subsection (a) lapses.

Section 2, as amended by the second Committee amendment, provides that the Secretary shall release the reversionary conditions of the patent only after the University prepares and delivers to the Secretary a recordable document setting forth the terms of an agreement between the University and the Secretary which will impose on the lands the University acquires restrictions similar to those being released from the lands the University now holds under the patent; and requires that any exchange or sale of the lands presently held will be on the basis of fair market value. The section, as amended by the Committee's third amendment, also requires that the University include the terms of its agreement with the Secretary in any document which transfers to the University property acquired by the University pursuant to the agreement. This is intended to make the restrictions imposed by the agreement a matter of record for the protection of any third parties.

OVERSIGHT STATEMENT

The Committee on Interior and Insular Affairs will have continuing responsibility for oversight of the implementation of this bill if enacted. No recommendations have been received pursuant to Rule X Clause 2(b) of the Rules of the House of Representatives.

INFLATIONARY IMPACT STATEMENT

Pursuant to Rule XI, clause 2(1)(4) of the Rules of the House of Representatives, the Committee states its belief that enactment of H.R. 6419, as amended, will have no inflationary impact on the national economy.

COST AND BUDGET ACT COMPLIANCE

H.R. 6419 authorizes no appropriations and should involve no significant costs. The analysis of the Congressional Budget Office follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., August 9, 1982.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed

H.R. 6419, a bill to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University, as ordered reported by the House Committee on Interior and Insular Affairs, August 4, 1982.

This bill directs the Secretary of the Interior to remove restrictions on the use and transfer of approximately 21 acres of land held by Eastern Washington University in order to allow the university to sell or exchange this land and acquire land more suitable for educational and recreational purposes. Under provisions of the bill the restrictions currently on the land held by the university are to be placed on any land either received in exchange or purchased with the proceeds from the sale of the land.

Based on this review, it appears that no additional cost to the federal government will be incurred as a result of enactment of this legislation.

Sincerely,

ALICE M. RIVLIN, *Director.*

LEGISLATIVE HISTORY AND COMMITTEE RECOMMENDATIONS

The Subcommittee on Public Lands and National Parks held a hearing on H.R. 6419 on June 21, 1982 and on July 29, 1982, recommended the bill, with amendments, to the Full Committee. The Committee, on August 4, 1982, ordered the bill favorably reported, as amended, by a voice vote.

EXECUTIVE COMMUNICATIONS AND DEPARTMENTAL REPORT

The report of the Department of the Interior dated August 5, 1982, follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 5, 1982.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for our view on H.R. 6419, a bill "To direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University."

We would have no objection to the enactment of H.R. 6419, if amended to incorporate our recommendations.

H.R. 6419 would direct the Secreary of the Interior to realease certain conditions in patent numbered 1216646, which conveyed to Eastern Washington University (formerly the Eastern Washington College of Education), under authority of the Recreation and Public Purposes Act, approximately 21 acres of land described as lot 6, section 34, township 22 North, range 41 East, Williamette Meridian Washington. The conditions to be released are that the lands will revert to the United States if either the University or any successor uses the land for other than recreational and educational purposes or attempts to transfer title to the land.

The Secretary would not be required to release the reverter provisions of the patent unless the University has demonstrated to his satisfaction: (1) that it will dispose of these 21 areas of land only for the purpose of acquiring, by exchange or purchase, property which is more suitable for educational or recreational purposes; (2) that, if the property is sold or exchanged, the sale price or the value of the property acquired through exchange will not be less than the fair market value of the involved land; (3) that, if the land is exchanged, the University will pay to the United States the difference between the fair market value of the 21 acres and the property acquired by exchange or, if the land is sold, any portion of the amount received from the sale of the 21 acres which is not used to purchase other property; and (4) that title to any property acquired by the University by exchange of the 21 acres or by purchase with the proceeds of the sale of such land would vest in the United States if the University or any successor of the University (a) uses the substitute property for purposes other than educational or recreational purposes, (b) attempts to transfer title to such property, or (c) prohibit or restricts, directly or indirectly, or permits agents, employees, contractors, or subcontractors (including lessees, sublessees, or permittees) to prohibit or restrict the use of the property or any facilities thereon by any individual because of race, creed, color, sex, or national origin.

The University originally acquired the land in question in 1961 intending to develop it extensively as a retreat for its music school. The land is about 10 miles from the campus. The University did develop a road, powerline, well, toilets, two docks, and primitive camping areas, but abandoned its plans to install permanent buildings for educational purposes because of lack of funds. It continued using the land for recreation only and, in 1976, revised its management plan to make it compatible with the limited nature of this development and use. In September 1980, the property was worth about $250,000. We understand the University official have been criticized for retaining valuable property which is not actually useful for educational purposes.

Because of its physical features, including cliffs at the edge of the lake, the tract is not considered safe for unsupervised recreation. The University wants to obtain some safe, useable property closer to the campus, either by exchanging the 21 acres or selling it and purchasing substitute land. However, the reverter provision in the patent precludes such action. In order for the University to use the lands to acquire lands more suitable to its purpose, it is necessary to remove the reverter provision. H.R. 6419 is designed to achieve this objective. It cannot be accomplished administratively by the Secretary.

We recognize that a change in circumstances may render land unsuitable for the purposes for which it was granted under the Recreation and Public Purposes Act and that in some circumstances it may be desirable to allow the land originally conveyed to be sold or exchanged for land more suited to the purpose of the grant. On the basis of the information we have, we believe that the facts which generated this bill present a case for allowing substitution of more suitable land for lands that do not meet the needs of the grantee, in order to accomplish the purpose of the original grant. It is our view that when lands have been granted by the United States for a specified purpose on payment of less than fair market value, any change of use of the lands should

be carefully circumscribed to protect the public interest, and to assure that any transaction would be as compatible as possible with the intent of the initial grant. This has also been Congressional policy.

H.R. 6419 would meet these requirements if it were amended along these lines:

First, we recommend that the legislation establish a time limit for conveyance of the 21 acres and acquisition of the substitute property.

In addition, we believe that enforcement of the reverter provision on the substitute land which the University would be acquiring would be difficult unless there is a recordable document such as an agreement between the University and the Secretary assuring the right of reverter to the Federal Government. Accordingly, we recommend that the bill be amended to require the University to execute and deliver to the Secretary a document confirming the obligations imposed on the University by the bill.

We would be happy to work with the Committee in developing the suggested amendments.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GARREY E. CARRUTHERS,
Assistant Secretary.

○